IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2913 OF 2005
IN
FIRST APPEAL NO. 668 OF 1995
IN
CHARITY APPLICATION NO. 6 OF 1995

Nirvan T. Khatau & Ors. ..Applicants
(Ori. Respondents)

versus

Sanjeev G. Sutaria & Ors. ..Respondents
(Ori. Appellants)

Mr. S. M. Gorwadkar with Luckyraj Indorkar i/b. M/s. Shaunak Satpute & Co. for the Applicants - Original Respondents.

Ms. M. Sadh i/b. M/s. H. V. Gala for Respondent Nos. 1 and 2 (Original Appellants).

CORAM : D. G. DESHPANDE, J.

DATE : 4TH AUGUST, 2006

P.C. (IN CHAMBER) :

1. Heard Advocate for the Applicants - Original Respondents and Respondents - Original Appellants.

2. This is an application for setting aside the exparte order passed by me on 20.4.2005 in First Appeal No. 668 of 1995. According to the applicants - Respondents there was sufficient cause

for not appearing on 20.4.2005 in the matter when the matter came for hearing and therefore exparte order dated 20.4.2005 should be set aside. Secondly, according to him this First Appeal No. 668 of 2005 is in fact in the nature of the Second Appeal and the court before entertaining the appeal should have framed substantial question of law.

3. Whether there was sufficient cause for the respondents on 20.4.2005, or not, is a different question, my order is absolutely clear, it was passed by me after hearing Mr. Gala for the original Appellants, who made specific statement of the object of the trust i.e. to act subject to the provisions and permission of the Registered Temple Trust, which they want to achieve and seek by forming a trust. That statement clearly shows that the original appellants had no intention to interfere with the present Trust, they are not claiming any right in the property of the said trust and their purpose is just to assist, that is, I have recorded while disposing of the appeal.

4. Counsel for the applicants - original respondents state that if the applicants - original

respondents had any desire to assist, the question will remain whether the trust require the assistance. I do not think that looking to the statement made by Mr. Gala, any such aspect is required to be considered. Prayer is rejected.

5. In the result, Civil Application is dismissed.

(D.G. DESHPANDE, J.)